IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3115 of 2004
To
FIRST APPEAL No. 3126 of 2004
With
CROSS OBJECTION No. 70 of 2005
To
CROSS OBJECTION No. 81 of 2005

With

FIRST APPEAL No. 492 of 2005
To
FIRST APPEAL No. 496 of 2005
With
CROSS OBJECTION No. 88 of 2005
To
CROSS OBJECTION No. 92 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
HON'BLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SPL.LAQ OFFICER - Appellant(s)

Versus

THAKOR TALAJI SURAJI & 1 - Defendant(s)

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Appearance :

MR AD OZA, GOVERNMENT PLEADER for Appellant No(s).: 1.

MR AMIT C NANAVATI for Respondent No(s).: 1.
None for Respondent No(s).: 2.

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CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date : 26/07/2005

COMMON ORAL JUDGMENT (Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

All these appeals and cross-objections are disposed of by this common order as they arise out of the impugned common judgment and award dated 31st August, 2001 passed by the learned Extra Assistant Judge, Mehsana in L.A.R. Nos.1997 to 2013 of 1996.

2. The Special Land Acquisition Officer passed common award dated 16th June, 1995 awarding only Rs.1.80 ps. per sq. mtr. for the irrigated lands of the respondents – claimants against their claim of Rs.20/- per sq. mtr. Aggrieved by this, the claimants approached the Reference Court by way of aforesaid Reference Cases. The Reference Court, by its common judgment and award dated 31st August, 2001, awarded additional compensation at the rate of Rs.16/- per sq. mtr. to the claimants over and above the amount of compensation of Rs.1.80 ps. per sq. mtr. already awarded by the Special Land Acquisition Officer with other statutory benefits except awarding interest on solatium amount and on the amount payable under Section

23(1)(A) of the Land Acquisition Act.

3. The appellant – Special Land Acquisition Officer, Narmada Canal Project, Mehsana filed all these appeals against the part of the impugned award whereby the claimants have been awarded additional sum of Rs.16/- per sq. mtr. over and above the amount of compensation already awarded by the Special Land Acquisition Officer at the rate of Rs.1.80 ps. per sq. mtr.

4. The claimants have filed cross-objections in all these appeals and challenged the part of the impugned common judgment and award passed by the Reference Court whereby the Reference Court denied interest on the amount awarded on solatium under Section 23(2) and 12% price difference on the amount under Section 23(1)(A) of the Land Acquisition Act.

5. Heard learned Government Pleader Shri Oza for the appellant – Special Land Acquisition Officer and Shri Amit C. Nanavati for the respondents – claimants in all these appeals and cross-objections.

6. We have been taken through the impugned common

judgment and award passed by the Reference Court by the learned counsel for the parties. Learned Government Pleader has also produced on record a chart showing the distance of adjoining villages. Ultimately, both the learned counsel for the parties arrived at a consensus that in all, Rs.12/- per sq. mtr. would be just compensation. Having regard to the peculiar facts and circumstances of the case and the material placed on record, we are also of the considered opinion that Rs.12/- per sq. mtr. would be just compensation for both irrigated and non-irrigated lands. In that view of the matter, the impugned common judgemnt and award passed by the Reference Court awarding additional compensation at the rate of Rs.16/- per sq. mtr. has to be reduced and accordingly the impugned common judgment and award passed by the Reference Court awarding additional sum of Rs.16/- per sq. mtr. by way of compensation is reduced to Rs.10.20 per sq. mtr. Thus, the claimants would be entitled for compensation at the rate of, in all, Rs.12/- per sq. mtr. All the appeals are partly allowed accordingly.

7. This brings us to the cross-objections. The cross-objections filed by the claimants in all the appeals are

required to be allowed on two points (1) regarding the interest on solatium not awarded by the Reference Court and (2) the interest on the 12% price difference under Section 23(1)(A) of the Land Acquisition Act not awarded by the Reference Court. Now, it is a well-settled law by the Apex Court that the claimants are entitled for the interest on the solatium amount as well as 12% price difference under Section 23(1)(A) of the Land Acquisition Act. The Reference Court has wrongly disallowed their claims on these points. Accordingly, the cross-objections are allowed and it is held that the respondents – claimants are entitled to get interest on the amount of solatium awarded under section 23(2) of the Land Acquisition Act as well as interest on 12% price difference on the amount under Section 23(1)(A) of the Land Acquisition Act.

(B.J. Shethna, J.)

(M.C. Patel, J.)

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